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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,670	12/21/2001	Daniel T. Colbert	11321-P011C1D6	1672
7590	11/10/2003		EXAMINER	LISH, PETER J
Hugh R. Kress 2400 Bank One Center 910 Travis Street Houston, TX 77002			ART UNIT	PAPER NUMBER
			1754	9
DATE MAILED: 11/10/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/027,670	COLBERT ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Peter J Lish	1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 July 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 84-89 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 84-86 is/are allowed.
- 6) Claim(s) 87-89 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6.5</u> .	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

#### ***Claim Rejections - 35 USC § 102***

Claims 87-88 are rejected under 35 U.S.C. 102(a) as being anticipated by Kiang et al. (“Carbon Nanotubes With Single-Layer Walls”) with Zhang et al. (“Microscopic structure of as-grown single-wall carbon nanotubes by laser ablation”) to show a state of fact.

Kiang teaches that single-walled nanotubes tend to aggregate into bundles. The nanotubes in a bundle run substantially parallel to one another (see Figure 2c). Zhang teaches that the tubes have a homogenous diameter and are packed into a two-dimensional triangular lattice (section 3.2 – “Bundle structure”). It is inherent to the bundled single-walled nanotubes that they have a homogenous diameter. No difference is seen between the bundles of Kiang et al. and the arrays of the instantly claimed invention.

Claim 89 is rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kiang et al. ("Carbon Nanotubes With Single-Layer Walls") with Zhang et al. ("Microscopic structure of as-grown single-wall carbon nanotubes by laser ablation") to show a state of fact.

Kiang and Zhang are applied above. Regarding claim 89, it is not explicitly taught that the individual single-walled nanotubes in a bundle have homogenous lengths or helicities in any given region of the bundle. However, it is expected that at least two adjacent tubes will have the same helicity or the same length due to corresponding growth conditions. Thus it is expected that a region of a nanotube bundle have a homogenous length or helicity in addition to the homogenous diameter, which property is shared by the entire bundle.

#### ***Allowable Subject Matter***

Claims 84-86 are allowed. The following is a statement of reasons for the indication of allowable subject matter: Prior art neither teaches nor suggests a process of forming two arrays of parallel single-walled nanotubes, which were previously grown by known methods, and assembling the arrays together to form a single composite.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Lish whose telephone number is 703-308-1772. The examiner can normally be reached on 9:00-6:00 Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 703-308-3837. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

PJL



STUART L. HENDRICKSON  
PRIMARY EXAMINER